S.B. Civil Misc. Appeal No.1143/2005

United India Insurance Company Ltd.

vs.

Lakma and others.

Date : 8.9.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. MR Singhvi, for the appellant.

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Heard learned counsel for the appellant.

The appellant is aggrieved against the award dated 17.2.2001 by which the Motor Accident Claims Tribunal, Banswara in Accident Claim Case No.50/97 allowed the claim petition and awarded compensation of Rs.88,000/- only to the claimants in a case where one Miss Raja died in the accident which occurred on 27.4.1987.

According to learned counsel for the appellant, the claim petition was filed after expiry of limitation and the driver had no valid driving license, therefore, the insurance company could not have been held liable for payment of compensation to reimburse the insured.

I have considered the submissions of learned counsel for the appellant.

The question of limitation now cannot be entertained in

view of the fact that the bar of limitation no more can come in the way of claimants for maintaining the claim petition after amendment of Motor Vehicles Act.

So far as defence of the appellant that the driver had no driving license is concerned, the tribunal rightly held that the burden was upon to the appellant to prove that the driver had no driving license. The appellant did not produce any of the person who could have been a relevant witness for proving the fact in question. The tribunal observed that the appellant did not produce any police officer who enquired into the matter and did not even call the driver nor any enquiry was conducted from the officer of the transport office. In view of the above, since there was no evidence that the driver was not having driving license, therefore, the tribunal right rejected the defence of the appellant.

That being the position, I do not find any merit in this appeal and accordingly, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya